IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 25823 of 2007(Y)

PETITIONER:

DR.K.S.ANAND, S/O K.SUKUMARAN NAIR,
AGED 32, RESIDING AT 'JORHAT ENCLAVE',
PUTHIYAPARAMBA, P.O.ALAVIL, KANNUR-670008.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS:

1. M/S HINDUSTAN PETROLEUM CORPORATION LTD,
REPRESENTED BY ITS REGIONAL MANAGER,
KOZHIKODE.

2. THE DISTRICT MAGISTRATE/DISTRICT
COLLECTOR, KANNUR.

3. THE KERALA STATE POLLUTION CONTROL
BOARD, REPRESENTED BY ITS SECRETARY,
TRIVANDRUM.

4. THE ENVIRONMENTAL ENGINEER,
KANNUR DISTRICT OFFICE, KERALA STATE POLLUTION
CONTROL BOARD, KANNUR-670002.

5. SMT. SAMEERA FAKRUDDIN,
D/O MR. FAKRUDDIN, RESIDING AT TALIPARAMBA
AMSOM DESOM, TALIPARAMBA, KANNUR DISTRICT.

BY ADV. SMT.K.K.THULASY BHAI,SC,POLLUTION C.BOA
BY GOVT. PLEADER SRI.A.J.VARGHESE.
BY STANDING COUSNEL SRI.M.K.CHANDRAMOHAN DAS.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 25823 OF 2007 - Y

Dated this the 13th day of September, 2007

J U D G M E N T

The petitioner is a Dentist and owns property adjacent to a site where respondents 1 and 5 propose to establish a retail outlet for petroleum products. The allegation is that while constructing the petroleum tank underground, there is likelihood of the petroleum products percolating into the ground polluting the ground water and therefore, the petitioner seeks the following reliefs:-

> "a. issue a writ of certiorari or such other writ, order or direction calling for the originals of Exts.P4 and P4(a) order of the Additional District Magistrate, Kannur dtd.14.5.2007 and quash the same in the interest of justice;
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> b. issue a writ of mandamus or such other appropriate writ, order or direction directing the respondents 2 to 4 to consider and pass orders in Exts.P5,P6,P7 and P10 representations after hearing the petitioner in the interest of justice;

c. pass any such interim orders as this Hon'ble Court may deem fit and proper in the circumstances of the case;

d. to allow reliefs and costs;"

2. I do not think that such a contention can be countenanced because it is in the best interest of respondents 1 and 5 themselves to see that the petroleum products in the tanks do not percolate into the ground from the tank. In fact, if the tanks are not watertight, the fifth respondent stands to lose because they would be subject even to prosecution in such an eventuality. As far as the first respondent is concerned, they would also stand to lose because their petroleum products would go waste. Therefore, I cannot accept that respondents would allow such pollution which is detrimental to them also.

In the above circumstances, I am not inclined to entertain this writ petition on such allegations. Accordingly, the writ petition is dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J.

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007